

Voter Residency for Registration Purposes- Suggested Changes by the ACLU of Virginia

~~Strikethrough~~ indicates deletion from the original draft; underline indicates addition.

Article II §1 Constitution of Virginia (1971)

In elections by the people, the qualifications of voters shall be as follows:

Each voter shall be a citizen of the United States, shall be eighteen years of age, shall fulfill the residence requirements set forth in this section, and shall be registered to vote pursuant to this article. . . .

The residence requirements shall be that each voter shall be a resident of the Commonwealth and of the precinct where he votes. Residence, for all purposes of qualification to vote, requires both domicile and a place of abode.

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The following regulations shall apply in determining the residency of an application for voter registration:

1) Definitions:

- a) Domicile is a place, usually a person's home.
- b) Home is the place where a person dwells and which is the center of his domestic, social and civil life.
- c) To acquire a domicile of choice in a place, a person must intend to make that place his home for the time at least.

2) Required Intent:

- a) A person who intends to remain in a location forever has established the required intent for the purposes of establishing domicile.
- ~~b) A person with specific intent to leave his current location at a fixed date in the future has not established the requisite intent for the purposes of establishing domicile.~~
- e)b) A person who intends to remain in his current location for the time at least and may leave in the future, upon the happening of a future contingency, has established the requisite intent for the purposes of establishing domicile.

3) Nothing in this regulation shall be construed to confer upon any person any additional privileges or benefits other than the right to register to vote and to be qualified to vote in an election.

4) A residence for purposes of voter registration cannot be established in a commercial or industrial building that is not normally used for residential purposes unless the building is used as a primary nighttime residence.

5) No presumption in favor or against residence may arise on the basis of a person's presence or absence while employed in the service of the Commonwealth or United States; nor while engaged in the navigation of the waters of the United States or of the high seas; nor while a teacher in or student of any institution of learning; nor while confined in any jail as a non-felon; nor while a patient or confined for any reason in any nursing home, convalescent home or hospital, old folks home or old age home, veterans' home, or like institution or private facility. Such person shall be deemed a resident in the precinct in which he resided next prior to his temporary absence.

- 6) No person residing in an area within the boundaries of Virginia which have been ceded to, or acquired by, the federal government shall be denied the right to vote in elections of the Commonwealth if such person is otherwise qualified to vote in such election or elections.
- 7) In the event that a person's habitation is not a traditional residence associated with real property, then the location of the usual sleeping area for the person shall be controlling as to the residency of that person. Residency shall be broadly construed to provide all persons with the opportunity to register and to vote.
- 8) If a person resides in an area lacking a specific mailing address, the person shall provide a mailing address along with a description indicating where the person resides. The description must identify the location with sufficient specificity to allow the general registrar to assign the location to a precinct. The person shall be assigned to a precinct based on the geographic description of where the qualified person resides.
- 9) The residence of a homeless person is the precinct where the homeless person usually sleeps. Residence requirements shall be construed broadly to provide homeless persons with the opportunity to register to vote and to vote.
- 10) If a person's family lives in one precinct and the person lives during the work-week or does business in another, the person's residence is located at the precinct where the person's family lives, unless the person establishes a home in the other precinct and intends to remain there, with or without the person's family.
- 11) If a person's home is destroyed or rendered uninhabitable by fire or natural disaster, the person does not lose residence in the precinct where the home is located if the person intends to return to the home when it is reconstructed or made habitable unless he has either established a new domicile or have changed his registration to an address outside the precinct.
- 12) In the event that a person's residence is divided by a jurisdictional boundary line or election district boundary line, then the location of the bedroom or usual sleeping area for that person with respect to the location of the boundary line at issue shall be controlling as the residency of that person.
- 13) The domicile of one spouse shall not be automatically presumed to be that of the other spouse, whose residence shall be determined independently in accordance with this regulation.
- 14) If a college student intends to make his home in the jurisdiction where he is physically present for the purpose of attending college ~~and has no specific intent to return to his former home after graduation~~, then he may claim the college jurisdiction as his domicile. A college student does not need specific intent to stay in the college jurisdiction beyond graduation in order to establish domicile there.
- 15) A person loses voting residence in any county/city in Virginia by voting in any other county/city or state.
- 16) The general registrar shall ask a person to provide additional information in support of his registration application only in the following situations:
 - a) The applicant fails to provide a residential address, such that the registrar is unable to place the registrant in a voting precinct. In this situation, the general registrar shall request a residential address or physical description of where the applicant resides.
 - ~~b) The applicant provides a mailing address in a different county/city from his residential address. In this situation, the general registrar shall request a residential address and/or mailing address in the same county/city and ask the supplemental questions provided in § 17.~~
 - e)b) The only address provided by the applicant does not physically exist or the VERIS system reports this address as a non-residential address. In this situation, the general registrar shall request a residential address or explanation and ask the supplemental questions provided in § 17.

~~d)c)~~The applicant provides a residential address that cannot receive mail. In this situation, the general registrar shall ask for a mailing address in the same county/city.

e)d)The applicant provides an address which is temporary in nature. Temporary addresses shall include, but not be limited to, hotels, motor homes, hospitals, and houseboat. Temporary addresses shall not include apartments, ~~or dormitories, or homeless shelters.~~ In this situation, the general registrar shall ask the supplemental questions provided in § 17.

17) Supplemental Questions: ~~In addition to any information missing from the voter registration application~~ Where authorized in § 16, the general registrar shall ask the following questions:

a) Are you currently registered to vote at another address?

i) If yes, in which county/city and state are you registered to vote?

ii) If yes, do you wish to cancel your registration in that county/city and state?

~~b) Do you have a specific plan to move from this county/city at a fixed date in the future?~~

~~i) If yes, when?~~

18) Review of Supplemental Questions:

a) If the applicant answers “yes” to the question in §17(a), the general registrar shall notify the locality provided pursuant to § 17(a)(i).

b) If the applicant answers “no” to the question in § 17(a)(ii), the applicant has not established the requisite intent for the purposes of establishing domicile.

~~c) If the applicant answers “yes” to the question in § 17(b), the applicant has not established the requisite intent for the purposes of establishing domicile.~~

19) If, after requesting additional information pursuant to §§ 16-18, the general registrar approves the application, the registrant shall be registered as of the date that his application was originally received by the registrar or state-designated voter registration agency, or, if mailed, on the date postmarked.